

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7948

BILL DOUGLAS PAILIN,

Plaintiff - Appellant,

versus

RESTON HOSPITAL CENTER; PADMA K. SHUKLA,
Emergency Room Physician,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. T. S. Ellis, III, District Judge. (CA-04-1152)

Submitted: March 9, 2005

Decided: April 15, 2005

Before WILKINSON, GREGORY, and DUNCAN, Circuit Judges.

Vacated and remanded by unpublished per curiam opinion.

Bill Douglas Pailin, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Bill Douglas Pailin ("Pailin"), a Virginia inmate, appeals from an order of the district court dismissing without prejudice Pailin's claim filed pursuant to 42 U.S.C. § 1983 (2000) for failure to exhaust his administrative remedies. This court has held "that a plaintiff may not appeal the dismissal of his complaint without prejudice unless the grounds for dismissal clearly indicate that 'no amendment [in the complaint] could cure the defects in the plaintiff's case.'" Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1067 (4th Cir. 1993). Pailin alleges that he was not incarcerated or in custody at the time he received medical treatment; thus, it is not possible for him to pursue prison administrative remedies in connection with this dispute. Accordingly, we vacate the order of the district court and remand for further consideration. We deny Pailin's motion for appointment of counsel. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

VACATED AND REMANDED